

Award No. 13967
Docket No. TE-13027

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the O.R.T. that Extra Block Operator John E. Block is entitled to eight (8) hours at the straight time rate for time card submitted for May 12, 1960, under Regulations 4-F-1(e), 4-J-1, 5-E-1.

EMPLOYEES' STATEMENT OF FACTS: The facts are best obtained from the record of handling on the property, which is as follows:

"13 Hoover Drive
Brick Town, N.J.
June 29, 1960

Mr. N. J. Lynch
Supt-Personnel
Penna. R.R.
New York, N.Y.

Dear Sir:

I have the following subject to list for discussion at our next scheduled meeting to be held July 18, 1960.

'Claim of the General Committee of the O.R.T. that Extra Block Operator John E. Block is entitled to 8 hours at the straight time rate for time card submitted for May 12, 1960.' Reg. 4-F-1(e), 4-J-1 & 5-E-1.

The facts in the above case are that Extra Block Operator John E. Block was available and not called to copy and deliver the following message to 6 eastbound trains on May 12, 1960, Nos. 204, 3826, 206, 122, 216 & 3828, but instead the Station Master at Trenton Sta.

not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

It has been shown that no work is being performed by the Trenton Station Master to which employes represented by the Telegraphers' Organization have established an exclusive right; that the Scope of the Rules Agreement was not violated and the Claimant is not entitled to the compensation which he claims.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employees in this matter.

(Exhibits not reproduced.)

OPINION OF BOARD: This dispute concerns the copying and delivering of messages by the Station Master at Trenton, New Jersey, to the conductors of six eastbound trains which the Organization claims were in violation of the Scope of the Agreement. The parties agreed on the following joint statement of fact:

"Claimant, John E. Block was assigned as an Extra Block Operator, New York Region, tour of duty and rest days — various.

"On date in question, May 12, 1960, the Station Master at Trenton relayed the following instructions from the Master Sheet Telegrapher, New York Office, to the conductors of certain trains:

"C&E.....New York May 12, 1960

"Account Men Working on No. 1 track, you may run No. 2 Track from County to Lincoln. Following trains involved will be notified.

"Claimant was available for service on date in question.

"The claim was discussed at a meeting held on July 18, 1960 and denied in a letter from the Superintendent-Personnel dated July 20, 1960. In a letter dated July 28, 1960, the District Chairman advised that he did not concur with the decision and requested that the case be progressed in Joint Submission."

The Organization asserted that the messages should have been given to the Train Director at "Fair" Tower which was some 400 yards from the end of station where the Station Master was located. The Carrier stated that the procedure followed was more efficient and avoided the necessity to have the trains slow down at the tower.

The Organization claims that the copying of such messages is work reserved exclusively to the Telegraphers under the Scope of the Agreement. It does not claim that they were train orders but asserts they were, nevertheless, messages affecting the movement of trains and traditionally the work of Telegraphers.

The contention that the Scope Rule of the applicable Agreement reserves work to the Telegraphers on this property was recently examined by this

Board in Award 13288 which noted the primacy of arbitration case No. 153 over Award No. 3524 upon which the Petitioner relies. We are in accord with the principles stated in Award No. 13288. The Petitioners are obliged to submit strong proof of practice in order to sustain their claim to the exclusive right to perform this work. This they have failed to do.

In Arbitration case No. 153 the Arbitration Board awarded a rule which restricted Train and Engine Service Employees from copying train orders under specified conditions and declined to award a rule proposed by the Organizations which would have restricted the use of the telephone in connection with train movement, train orders, clearances, messages or reports of record. In its opinion, the majority made it clear that long before the Telegraphers obtained an agreement the telephone was extensively used for all purposes on this property and that in being denied exclusive rights, the Telegraphers were not being deprived of rights which they had never had or which might have been implied in the Scope Rule at the time it was first promulgated.

What is involved here is not a train order. Indeed, the Petitioner expressly so states. It is not even a communication dealing with the movement of trains but is an informational report explaining the reason why the trains were routed over track No. 2 instead of their usual course over track No. 1, and was given them for the protection of passengers who may have to cross tracks to board or alight from the train.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of November 1965.